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ARIZONA SUPREME COURT

In the matter of:)	
)	
PETITION TO AMEND RULE)	Supreme Court No. <u>R-19-0031</u>
45(a)(2) AND (b)(1))	
)	COMMENT
)	
)	

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully files this Comment recommending the court deny the petition.

The proposed rule change would create by rule an alternative means of obtaining subpoenas that displaces clerk issued subpoenas provided by statute. This proposal overlooks statutory provisions that indicate legislative intent to provide significant funding for a variety of important state and local programs by assessment of a fee by the clerk for this service. In the last three years, subpoena fees paid under ARS § 12-284 have generated an average of \$1.2 million dollars per year in revenue. Pursuant to ARS § 12-284.03, this revenue supports state and local programs that assist victims of child abuse and domestic violence, confidential intermediaries and

fiduciaries, alternative dispute resolution, collection of court-ordered monetary obligations, court automation initiatives, and the elected officials' retirement plan.

Since 2008, attorneys have had an efficient web-based alternative means of obtaining subpoenas 24/7 through the State Bar's website, *see* Supreme Court No. R-06-0025. This automated system, which was supported by the Arizona Association of Superior Court Clerks, includes collection and distribution of the statutory subpoena fee to the clerks in each county. The Court has previously considered and denied requests to adopt a system like the one proposed in the instant petition. For the reasons stated here, the undersigned believes the Court should not change its course on this issue, and should deny the petition.

Respectfully submitted this 25th day of March, 2019.

By /S/
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